

FOURTEENTH ANNUAL REPORT

OF

THE DEPARTMENT OF JUSTICE

FOR

PRINCE EDWARD ISLAND

1986

TO:

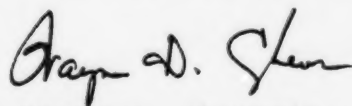
THE HONOURABLE LLOYD G. MACPHAIL
Lieutenant Governor
Province of Prince Edward Island

May It Please Your Honour:

I have the honour to submit the fourteenth Annual Report
of the Department of Justice for this province.

I have the honour to be, Sir,

Your obedient servant,

A handwritten signature in dark ink, appearing to read "Wayne D. Cheverie". The signature is fluid and cursive, with the first name "Wayne" and last name "Cheverie" clearly distinguishable.

Wayne D. Cheverie, Q.C.
Minister of Justice and
Attorney General

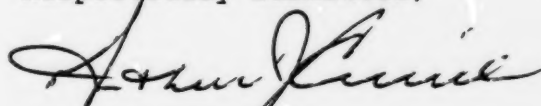
TO:

THE HONOURABLE WAYNE D. CHEVERIE, Q.C.
Minister of Justice and Attorney General
Province of Prince Edward Island

Sir:

I am pleased to submit herewith the Annual Report of the
Department of Justice for the year ending 31 December 1986.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Arthur J. Currie', written in a cursive style.

Arthur J. Currie, Q.C.
Deputy Minister of Justice

CONTENTS

	<u>Page No.</u>
Introduction	1
Departmental Divisions	1
Corporations Division	2
Consumer Services Division	6
Superintendent of Insurance	8
Legal Services Division	11
Crown Attorneys	11
Corrections Division	12
Legislative Counsel	15
Charlottetown and Summerside Registry Offices	15
Public Defender	16
Family Legal Aid	20
Probation, Family Court and Young Offenders Services ..	23
Judicial Division	26

INTRODUCTION

Of major significance to the Department in 1986 was the appointment of the Hon. Wayne D. Cheverie, Q.C. as Minister of Justice and Attorney General after the general election of 21 April 1986. The former Minister, Mr. Justice George R. McMahon was sworn in as a Justice of the Supreme Court of Prince Edward Island on 13 June 1986.

The major activity of the Department in 1986 centered around the implementation of the Young Offenders Act and in particular the provision of facilities for open and closed custody.

The reports of the divisions of the Department contained herein have been prepared by the Directors of the divisions and amalgamated into the report of the Department. The report of the Commanding Officer, "L" Division R.C.M.P., will be tabled in the House as a separate report.

DEPARTMENTAL DIVISIONS

1. Administration
2. Corporations
3. Consumer Services
4. Insurance
5. Legal Services
6. Crown Attorneys
7. Corrections
8. Legislative Counsel
9. Charlottetown and Summerside Registry Offices
10. Public Defender
11. Family Legal Aid
12. Probation, Family Court and Young Offenders Services
13. Judicial

In addition to the Department of Justice, the Minister of Justice is responsible for the Human Rights Commission, the Housing Corporation, the Office of the Rentalsman, the Atlantic Police Academy Advisory Council, the Land Registration and Information Service and Native Affairs.

CORPORATIONS DIVISION

Acts Administered

The Corporations Division of the Department of Justice is responsible for the following Acts:

- Companies Act
- Condominium Act
- Co-operative Associations Act
- Corporation Securities Registration Act
- Credit Union Act
- Licensing Act
- Limited Partnerships Act
- Partnership Act
- Securities Act
- Winding Up Act

Companies Act Statistics

Following are statistics which pertain to the various statutes administered by the Corporations Division:

	1986	1985
- Incorporations during the year		
Business Corporations	320	281
Not-for-profit corporations	28	27
Total new corporations	<u>348</u>	<u>308</u>
 - Certificates of good standing under the Companies Act and Licensing Act	200	150
 - Annual returns filed under section 80 of the Companies Act	4,571	3,420

The number of incorporations during 1986 increased 13% over the previous year. Most of the other filings under the Act were about the same as they were in 1985, except for annual return filings which increased 34% over the previous year. This increase is due to the campaign by the Department to have all companies bring their records up to date.

Business and Corporate Names Policy

A new business and corporate names policy was brought into effect on December 1, 1985. All business and corporate names are now searched by computer before being cleared for registration. There are three levels of name search available and the top level involves a computer comparison of a proposed business

name against all business and corporate names and all trademarks in Canada. The effect of this is that the public will have better information before making a final decision on the registration of a business name in this province.

One year after implementation the new system has proven to be quite satisfactory and is widely accepted by the legal profession and the public at large.

Co-operative Association Act

There are some eighty active co-operatives in the Province and those are reported on separately in the Annual Report of the Inspector of Co-operatives, which is also tabled in the Legislature.

During 1986 there were 10 new co-operatives incorporated and 10 were incorporated in 1985.

Corporations Division staff continue to work closely with co-operatives, especially through the Co-operative Union of Prince Edward Island, which acts as the voice of the co-operative movement in Prince Edward Island.

Corporation Securities Registration Act

Registrations under this Act totalled 299 in 1986 and 256 in 1985. In 1986 there were 60 certificates of status issued and in 1985 there were 68 issued.

Credit Union Act

The Credit Union Act is administered by the P.E.I. Credit Union League Limited, which also carries out inspections of credit unions. A separate report on credit unions, as compiled by the League, is also presented in the Legislature.

The Credit Union League staff communicates regularly with the Department to keep it informed about the credit union movement.

Licensing Act

All out-of-province businesses carrying on business in this province are required to register under the Licensing Act regardless of whether they have an office or employees in the province. Such business organizations include banks, trust companies, loan companies, finance companies, chain stores, oil and gas companies, construction companies, manufacturers

and generally all corporations not incorporated under the laws of this province and having their head office or chief place of business located outside the province.

	1986	1985
Corporations and businesses registered under this Act	1,999	1,881

Partnership Act

The business names of sole proprietorships and partnerships are registered under the Partnership Act as well as the trade names of corporations.

	1986	1985
Declarations of proprietorships, partnerships and trade names filed during the year	650	543
Dissolutions Filed	161	138

Securities Act

The Securities Act regulates the sales of securities to the public and provides for the licensing of brokers and salesmen.

The following registrations and filings were made under the Act:

	1986	1985
Licenses issued		
- resident salesmen	67	55
- non-resident salesmen	21	19
- brokers	28	29
Prospectuses registered	395	310
Prospectus amendments registered ..	44	40
Certificates of exemption from full prospectus requirements	57	68

Revenue

The Corporations Division collects fees under the various statutes it administers with revenue expected for the fiscal year ending March 31, 1987 of \$499,000. Revenue for the fiscal year ending March 31, 1988 will be about the same unless fee schedules are revised.

Other

Corporations Division staff spend a significant amount of time responding to inquiries from the public as the information filed in the Division is public information. Requests for information about corporations, co-operatives, partnerships, or other matters come from the legal and accounting professions, other government departments, police authorities, businessmen, bankers and other financial institutions and the public at large.

Inter-Government Conferences

The Director of Corporations or the Corporations Officer attended the 1986 Annual Conferences of the Canadian Securities Administrators, the Administrators of Co-operative and Credit Union Legislation and the Canadian Corporation Law Administrators.

These meetings are invaluable as there is much knowledge to be gained from administrators in the larger provinces where the various administrators specialize in the administration of securities law, company law, etc. In the smaller provinces such specialization is not practical for financial reasons.

These administrators' conferences are useful for exchanging information and developing uniform policies to ease the burden on business organizations which often operate in several provinces in Canada.

Personnel

Director - Edison Shea
Corporations Officer - Merrill Wigginton
Administrative Assistant - Sheila MacNevin
Secretary - Kay Constable
Secretary - Norma MacMillan

CONSUMER SERVICES DIVISION

A. Acts Administered

The Consumer Services Division of the Department of Justice is responsible for the administration of the following laws:

Auctioneers Act	**
Bills of Sale Act	
Business Practices Act	
Cemeteries Act	**
Charities Act	**
Collecting Agencies Act	**
Conditional Sales Act	
Consumer Protection Act	**
Consumer Reporting Act	**
Direct Sellers Act	**
Lottery Schemes Order	**
Prearranged Funeral Services Act	
Sale of Goods Act	
Part X, Bankruptcy Act	*
Tax Rebate Discounting Act	*

NOTE: * - Federal Statute
 ** - License or Registration Requirement

Effective November 1st, 1986, responsibility for the administration of the Lottery Schemes Order was transferred to the Consumer Services Division.

No new legislation was introduced in 1986. However, regulations pursuant to the Direct Seller's Act were amended to enable easier access to surety bonds posted by some Direct Sellers. These changes will enable consumers, who suffer financial loss due to insolvency by a direct seller, to recover their money in a more timely fashion.

B. Program Statistics and Comments

1. LICENSING AND REGISTRATION:

	1986	1985
a) Direct Sellers Licensed	253	346
b) Collection Agencies Licensed..	5	4
c) Consumer Reporting Agencies Licensed	4	4
d) Auctioneers Licensed	40	37

The 27% decrease in the number of Direct Sellers licenses is a result of the two vacuum cleaner distributors who ceased operations in the Province in early 1986.

2. CONSUMER COMPLAINTS AND INQUIRIES:

a) Complaints:

	1986	1985
i) Motor vehicle sales & repairs..	171	150
ii) Home construction & renovations	36	24
iii) Appliances - sales & service..	54	44
iv) Mail order/direct sales.....	174	163
v) Collections/credit.....	71	63
vi) Financial/debtor problems.....	107	110
vii) Other.....	499	481
TOTAL.....	<u>1112</u>	<u>1035</u>

b) Inquiries:

	1986	1985
TOTAL.....	<u>1216</u>	<u>1236</u>

3. ORDERLY PAYMENT OF DEBTS PROGRAM:

	1986	1985
a) Funds Disbursed to Creditors..	\$86,659.49	\$135,635.
b) Debtor Interviews & Reviews...	108	102

In 1986, nine new Consolidation Orders (new files) were issued as compared with eight in 1985. Fourteen clients retired their debts in full during 1986 for a net reduction in active paying clients.

C. Consumer Education & Information

During 1986, the staff of Consumer Services spoke to twelve different groups and educational institutions. These range from Womens Institute, Holland College, High Schools and pre-retirement courses across the province.

D. Personnel

Director - Eric Goodwin
Consumer Services Officer - Edna Lord
Secretary-Receptionist - Marlene Hughes

SUPERINTENDENT OF INSURANCE

Insurance

	1986	1985
Companies registered and licensed.....	246	249
Applicants examined	157	121
Insurance agents' licenses issued.....	303	278
Insurance adjusters' licenses issued....	41	37

COMMENTS:

Automobile insurance premiums were up in 1986 due to loss experiences in recent years. While market conditions have improved somewhat; however, difficulties, especially in the placing of liability cover, continue to be experienced. The introduction of the Self Insurance Program (SIP) has provided liability cover for governments, schools and hospitals, thus reducing difficulties both in terms of availability and costs for these provincial entities. Efforts are continuing with municipalities and provincial bodies in addressing their insurance needs.

The Province of Ontario has now received the Task Force Report on Insurance and it is presently under study. As most insurance offices are located in Ontario, any action taken there will have an influence and impact in other provinces. This office will continue to monitor the situation closely.

The Canadian Council of Superintendents of Insurance in conjunction with the Insurance Bureau of Canada and other segments of the industry have been working on the establishment of a Compensation Fund for all of Canada. This could indemnify in the case of an insolvent insurer and is funded by an assessment on all registered insurers. It is anticipated that the Plan will be operational in 1987. The Council is also working in conjunction with the Canadian Life and Health Insurance Association Inc. to establish a similar compensation fund for the life and health industry.

The Facility Association, which is designed to cover high automobile risks, continues to work well and no major problems have been encountered.

The detailed report of the Superintendent for 1985 is provided separately and licensing statistics for 1986 are set out above. Of particular note is the constant progress made by the Prince Edward Island Mutual Fire Insurance Company during the year. Dividends were paid on the basis of the 1984 results and consideration is now being given to further dividends to policyholders. The Company is well managed and this year celebrates the 102nd Anniversary of its founding.

The Practice of examining applicants for agents' licenses continues for all classes, and we believe this has greatly improved the calibre of agents and at the same time, reduced the turnover which was so prevalent in the past.

All persons adjusting insurance claims in the Province must hold a valid license.

The Superintendent attended two national meetings of the Association along with a number of committee meetings on a regional level. Special thanks and appreciation are extended to Milton Fitzpatrick, who retired as Superintendent of Insurance during the year after more than eighteen years of service to the province. The Annual Meeting of the Canadian Council of Superintendents of Insurance for 1987 will be held in Charlotte-town in September.

Premium and Fire Prevention Tax

	1986	1985
Premium tax collected.....	\$1,232,153.04	\$ 979,931.72
Fire prevention tax collected.....	91,942.74	81,846.21
Totals	<u>\$1,324,095.78</u>	<u>\$1,061,777.93</u>

COMMENTS:

Premium tax at the rate of 2% is collected on all insurance premiums, except fraternal and marine, written in the province. The Fire Prevention tax, which is assessed at 3/4 of 1% of the total fire premiums, is basically designed to defray expenses of the Provincial Fire Marshall's Office. The increase in Premium Tax is due to the increase in premium income.

Official Trustee

The services of the Official Trustee continue to increase during the year, with 117 active accounts. Funds held in trust fluctuate and averaged \$510,000 over the period. Excess funds are invested in Deposit Certificates with the Minister of Finance and at year end amounted to \$431,000.

The accounts are reviewed annually by the Auditor General and his report is available elsewhere.

We continue to enjoy a close working relationship with the Division of Aging of the Department of Health and Social Services, and as a result, we are able to better control the assets of patients or guests who are considered incompetent. The role of the Official Trustee is increasing quite substantially as all persons admitted to government homes that are considered incompetent are declared before admission. He is also called

upon to represent estates of deceased persons in certain actions and of course, continues to act as Administrator of Estates when no one else is available or qualified. The Official Trustee is also appointed Guardian in some situations, especially in the case where emergency surgery is considered necessary.

The Advisory Committee is consulted from time to time as the need arises.

Real Estate

The Superintendent of Insurance also administers the Real Estate Trading Act. Sales by agents during 1985 increased to more than 83 million dollars. Another good year is expected in 1986. Sales commissions for 1985 amounted to nearly 4 million dollars. An unknown number of properties are sold privately and those, of course, are not included in the figures given.

Two hundred and fifty-eight agents and salespersons were licensed in 1986, which is an increase over the previous year. New applicants must be bona fide residents and are required to pass a written examination, which is written in this office by appointment. All salespersons are bonded. A total of one hundred and three examinations were written in 1986.

Personnel

Superintendent of Insurance - W. Bennett Campbell
Secretary - Marlene Phelan

LEGAL SERVICES DIVISION

Legal Services are provided to the Premier's Office, Executive Council, Government Departments and some Crown Corporations and Agencies by lawyers employed in the Legal Services Division.

The Division has assigned solicitors to serve specific departments of Government in order to provide a degree of specialization which would not otherwise be possible.

The Legal Services Division represented Government in 1986 on litigation before the various divisions of the Supreme Court of Prince Edward Island. It otherwise represented Government before administrative tribunals both federally and provincially and assisted in drafting of new legislation. It provided legal opinions and advice to Government on the full range of matters involving Government.

Personnel

Director of Legal Services - Charles P. Thompson
Departmental Solicitor - Judith M. Haldemann
Departmental Solicitor - Linda M. Gaudet
Departmental Solicitor - Roger B. Langille
Legal Secretary - Deborah L. Gillespie

CROWN ATTORNEYS

There are three Crown Attorneys responsible for prosecuting all criminal cases under the Criminal Code of Canada and provincial statutes. The Crown Attorneys' Office is located in the Sir Louis Henry Davies Law Courts Building and in the Court House in Summerside.

Personnel

Director of Crown Attorneys - Richard B. Hubley
Crown Attorney - Darrell Coombs
Crown Attorney (Summerside) - David O'Brien
Secretary - Linda Peters

CORRECTIONS DIVISION

Statistics

The following is a statistical table of the number of prisoner admissions to the Correctional Centre and each jail during the year under the categories of (1) Lock-up (police arrestees held prior to court appearance, federal parole violators, immigration detainees); (2) Court Remands; and (3) Sentenced. Only status upon original admission is counted. Prisoners who change from lock-up to remand or sentence status or from remand to sentence status without release are not re-counted under their new category. All young offender admissions are shown as lock-up, even though they may have been remand or sentenced status when received. A prisoner transfer between institutions does not count as a new admission at the receiving institution. (See Table "A").

Of the 138 remand admissions during the year, 99 eventually changed to sentenced status without release. They do not appear in the sentenced column of Table "A".

The number of prisoners held before transfer to a federal penitentiary was 30. Of these, 15 were sentenced by Prince Edward Island courts, 15 were federal parole violators. The corresponding numbers in 1985 were 27 and 7. .

There were no prisoner deaths in the province during the year. Staff dealt with seven genuine suicide attempts. There were numerous attention getting acts resembling attempted suicide which staff handled capably.

As in 1985 there was only one escape involving adult prisoners from within an institution (Prince County Jail) during the year, with one prisoner involved. There were five runaways from outdoor/community activities, compared to four in 1985.

Table "B" is a statistical table of the number of days served by prisoners in 1986 in each jail and the Correctional Centre under the categories of (1) Lock-up; (2) Remand; and (3) Sentenced. Again, young offender days are shown under lock-up, even though the majority were on remand or sentenced status.

The per diem billing rate for holding a prisoner for the year of September 1, 1986 to August 31, 1987 is \$89.95 compared to \$86.75 for the previous year September 1, 1985 to August 31, 1986. This is an increase of 3.7%.

Volunteers from several religious groups and denominations, as well as many other organizations, associations and individuals, gave freely of their time to be involved in various ways in the operation of the Correctional Centre and its programs. To these groups and individuals, as well as government departments and divisions also involved, the Department is extremely grateful.

TABLE "A"
(PRISONER ADMISSIONS)

	LOCK-UPS		REMAND		SENTENCED	
	1986	1985	1986	1985	1986	1985
Provincial Correctional Centre						
Adult						
Male	1042	1136	57	62	739	499
Female	40	50	4	7	57	23
Young Offender						
Male	16	20	0	0	0	0
Female	2	1	0	0	0	0
TOTAL	1100	1207	61	69	796	522
Prince County Jail						
Adult						
Male.....	1016	551	55	47	504	174
Female	37	38	1	2	6	3
Young Offender						
Male	125	46	0	0	0	0
Female	2	0	0	0	0	0
TOTAL	1180	635	56	49	510	177
Kings County Jail						
Adult						
Male.....	243	245	18	6	262	208
Female	7	5	3	0	5	2
Young Offender						
Male	30	24	0	0	0	0
Female	9	1	0	0	0	0
TOTAL	289	275	21	6	267	210
Total 2 Jails + Provincial Correctional Centre						
Adult						
Male.....	2301	1932	130	115	1505	881
Female.....	84	93	8	9	68	28
Young Offender						
Male.....	171	90	0	0	0	0
Female.....	13	2	0	0	0	0
TOTAL.....	2569	2117	138	124	1573	909

TABLE "B"
(PRISONER DAYS)

	LOCK-UPS DAYS		REMAND DAYS		SENTENCED DAYS	
	1986	1985	1986	1985	1986	1985
Provincial Correctional Centre						
Adult						
Male	1159	1540	2559	1933	21880	20585
Female	42	50	83	57	877	377
Young Offender						
Male	16	20	0	0	0	0
Female	2	21	0	0	0	0
TOTAL	1219	1631	2642	1990	22757	20962
Prince County Jail						
Adult						
Male.....	1133	572	823	675	5306	4032
Female	39	38	1	3	6	3
Young Offender						
Male	1998	926	0	0	0	0
Female	2	14	0	0	0	0
TOTAL	3172	1550	824	678	5312	4035
Kings County Jail						
Adult						
Male.....	249	253	104	49	2278	1827
Female	7	5	13	0	18	6
Young Offender						
Male	296	268	0	0	0	0
Female	38	1	0	0	0	0
TOTAL	590	527	117	49	2296	1833
Total 2 Jails + Provincial Correctional Centre						
Adult						
Male.....	2541	2365	3486	2657	29464	26444
Female.....	88	93	97	60	901	386
Young Offender						
Male.....	2310	1214	0	0	0	0
Female.....	42	36	0	0	0	0
TOTAL.....	4981	3708	3583	2717	30365	26830

LEGISLATIVE COUNSEL

The office of the Legislative Counsel continues to produce the Acts of the province in both annual bound volumes and loose-leaf form. The regulations are produced in looseleaf form only.

The Legislative Counsel represented the province at Canadian Law Information Council meetings and various other Federal/Provincial meetings relating to the Charter of Rights.

Personnel

Legislative Counsel - M. Raymond Moore
Secretary - Marina G. Bears
Legislative Editor - Leona E. Nicholson

CHARLOTTETOWN & SUMMERSIDE REGISTRY OFFICES

The division's responsibilities are to administer the Kings, Queens, and Prince County Land Registry Offices.

For Year Ending 31 December 1986

Documents Registered	15,419
Survey Plans Filed	417

Personnel

Registrar of Deeds (Charlottetown) - Frances MacDonald
Assistant Registrar - Molly Armstrong
Clerk - Tanya Walker

Registrar of Deeds (Summerside) - Eileen Gaudet
Assistant Registrar - Shirley Rogerson

**REPORT OF THE
OFFICE OF THE PUBLIC DEFENDER
PROVINCE OF PRINCE EDWARD ISLAND**

April 1, 1985 to March 31, 1986

This was the thirteenth year of the public defender program in Prince Edward Island. The service is cost shared under a Federal-Provincial agreement which applies in all provinces.

Objective

The objective of the program is to ensure equality before the criminal law throughout Canada by making lawyers available to individuals who would otherwise be unable to afford legal representation. The program is further aimed at encouraging the development of minimum standards in the delivery of criminal legal aid.

Eligibility

The legal aid agreement between Canada and the province specifies that eligibility for legal assistance is to be determined by a flexible means test. In this province the test is conducted by a staff lawyer who must weigh the seriousness of the legal proceedings and then consider whether the applicant's present means should be sufficient to obtain private counsel.

How Service is Obtained

To obtain service, the applicant must contact a staff lawyer in the same manner as a private practitioner. Contrary to a common misconception, the courts do not assign cases to legal aid staff lawyers. Although legal aid has become an integral part of the justice system, the program is run independently from the courts.

Choice of Counsel

Legal services are provided by three staff lawyers. Private counsel are retained in a small percentage of cases where a scheduling problem or a conflict prevents a staff lawyer from acting. It is only in murder cases that the applicant is given the choice of being represented by private counsel.

Offices

Full-time offices are maintained at the Law Courts Buildings in both Charlottetown and Summerside. On court days, staff lawyers also travel to Alberton, Souris and Georgetown, if there are requests for assistance.

Cost-Sharing Formula

The federal-provincial cost-sharing agreement has been renegotiated every few years. The same cost-sharing formula applies across the Country but the level of federal contribution varies, depending on provincial per capita expenditures and other complex formula. Canada's share of criminal legal aid expenditures in this province has consistently been in the range of 85 to 90 per cent. For the Country as a whole, Canada's contribution has been in the range of 45 to 55 per cent since 1973.

Young Offenders

The Young Offenders Act, which was proclaimed in April 1984, has continued to place increasing demands on the resources of the program. Although previously, service was provided to the same age groups under the Juvenile Delinquents Act and the Criminal Code, the new Young Offenders Act has created a greater demand for legal assistance. The Young Offenders Act obliges police officers and the courts to advise young offenders to their right to counsel at all stages of the proceedings from arrest to trial. In addition, the Young Offenders Act contains several safeguards to ensure that young offenders are given the benefit of any doubt where their eligibility for free legal counsel is in issue. Experience to date seems to indicate that when these procedures and other factors are considered, most young offenders are eligible for legal aid.

As well as increasing the numbers of applicants seeking assistance, the services required under the Young Offenders Act have been of a more time consuming nature. There are several reasons for this trend. The most obvious is that Youth Courts are scheduled separate and apart from adult courts. This necessitates spending more time in travel and court attendance. Another major factor is that the legislation is new and in many ways different from the Criminal Code. As a result, procedures which evolved over decades in the Code and were then changed in the Young Offenders Act, are often the subject of litigation. Still other difficulties have been experienced because the programs and custodial facilities contemplated in the Young Offenders Act have not yet been put in place by the province.

All legal aid services under the Young Offenders Act are cost shared by Canada on terms similar to the present adult criminal legal aid agreement.

Cases Completed

The following cases were completed during the year. The definition of a case varies from province to province. In this province each separate charge is counted as a separate case. An applicant may have several charges arising from one incident. Likewise, charges from several incidents are often dealt with by the court at one time. In either situation the number of cases is equal to the number of charges. An appeal is also recorded as a separate case. Applications involving cases carried over from a previous year are not recorded in this report until the year in which the file is completed. In any instance where the same applicant requests assistance more than once within a year, an additional application is recorded. During the past year, 38 individuals requested assistance on more than one occasion.

Young offender cases are shown under each separate offence category in this report due to the increases in their numbers. In previous reports young offender statistics were not broken down by offence categories.

	Number Completed			
	84/85		85/86	
	<u>YOA</u>	<u>ADULT</u>	<u>YOA</u>	<u>ADULT</u>
Unlawful homicide	-	4	1	-
Robbery	-	13	-	26
Theft, Possession of stolen goods	22	220	118	166
Break and enter	39	232	184	71
Fraud, false pretences	1	99	46	147
Drunk and impaired driving ...	-	128	5	131
Other motor vehicle.....	-	23	2	21
Escape - unlawfully at large..	-	20	5	21
Cause disturbance.....	1	30	14	28
Assaults (including sexual assault)	3	88	26	74
Resisting arrest	1	10	2	13
Arson	-	-	1	2
Property damage	12	44	73	44
Breach probation	-	18	5	10
Dangerous and prohibited weapons	1	12	3	7
Narcotics	-	31	9	36
Sentence review <u>YOA</u>	-	-	8	-
Others	<u>2</u>	<u>52</u>	<u>4</u>	<u>85</u>
TOTALS	82	1024	506	882

Summary of Legal Aid

	<u>84/85</u>	<u>85/86</u>
Number of files (separate applications) completed and closed during the year.....	625	676
Number of cases (separate charges or appeals) completed in the above files.....	1106	1388
Cases where private counsel participated at some stage...	16	22
Percentage of cases handled in whole or in part by private counsel.....	1.4%	1.5%
Number of private counsel who participated.....	9	13
Cost of service rendered by private counsel.....	\$11,576.13	\$10,281.84

Number of Applications by Region

	<u>84/85</u>	<u>85/86</u>
Charlottetown.....	347	324
Summerside.....	206	238
Alberton.....	18	40
Georgetown.....	41	52
Souris.....	12	22

Age of Recipients

	<u>85/86</u>
12-17 years	35%
18 - 19 years	10%
20 - 25 years	28%
over 25 years	27%

Total Criminal Legal Aid Expenditures

<u>84/85</u>	<u>85/86</u>
\$156,506.17	\$157,217.00

SIXTH ANNUAL REPORT
Prince Edward Island Family Legal Aid
April 1, 1985 to March 31, 1986

This is the sixth annual report of the family legal aid program in Prince Edward Island. The service was initiated through federal start-up money in 1980 and continued by the province since then in conjunction with the criminal legal aid program.

Program Structure

The family legal aid program is an extension of the public defender program which has provided cost-shared legal aid in criminal matters in this province since 1973. Legal service for both programs is provided by the full-time staff of three lawyers and one secretary. Administrative and accounting services are provided by the Provincial Justice Department.

The program is administered by the Director of Legal Aid (a staff lawyer), who reports to the Deputy Minister of Justice.

Objectives

The objective of funding legal aid in family law is similar to the stated objective of criminal legal aid - to provide access to the law. In particular, the objective is to enable individuals to exercise and protect their basic rights under family legislation. The program attempts to make free legal services available to eligible persons to the extent that a reasonable man of modest means would pay his own lawyer if faced with the same legal problem. This is the stated objective of legal aid throughout Canada.

The achievement of that objective is subject to staff and budgetary limitations. The policy of restraint and cutbacks in government programs was already in place when this program was being developed. Consequently, this province has been unable to achieve the level of service provided in provinces where family legal aid was fully established during the period of expansionary growth in social spending in the early to mid-70's.

Eligibility

Eligibility is restricted to persons already on social assistance or who might be eligible for such assistance if required to pay the probable costs of representations by private counsel.

Priority for assistance is given to applicants whose legal problem involves dependent children.

Legal aid may be refused in any situation where a reasonable individual of modest means faced with a similar problem would probably not pay from his own pocket to obtain the assistance requested.

Experience to date has shown that the greatest restriction is the lack of staff to provide assistance even where financial eligibility is established. This problem intensified during the past year due to increasing demands on staff time under the Young Offenders Act. To service that demand, staff time has to be taken from areas of the family program, where assistance was being provided on a discretionary basis.

Coverage

Coverage is limited to matters within the jurisdiction of the Family Division of the Supreme Court. Generally, this involves the Divorce Act, Family Law Reform Act, and the Family and Child Services Act. Priority is given to any application under the latter Act because of the potentially serious consequences involved in the outcome of each case. Legal representation is considered essential in child welfare cases because the opposing party is the State.

Involvement of Private Counsel

Legal aid staff lawyers may represent only one party in any dispute. The same restriction applies to law firms in private practice. In some cases more than one party seeks legal aid. The program has a small budget to service those cases by hiring private counsel on a tariff basis.

Legal Aid in Other Provinces

Before the introduction of family legal aid in this province, a Prince Edward Island resident requiring legal representation in another province would not be eligible for the free assistance available to residents of that province. Under an inter-provincial agreement, residents of Prince Edward Island now have the advantage of obtaining legal aid in any province of Canada, provided similar service would be covered for a non-resident in this province.

The Number of New Files Opened

There were 158 new files opened in 1985/86. This number includes only those cases where legal action was commenced through correspondence, negotiation, or court action. The figure does not include telephone and office consultations where summary advice was given without opening a correspondence or litigation file.

Family cases tend to be difficult to settle quickly. Most cases take several months to resolve and in some, work proceeds beyond the year in which the file was opened. By nature, the practice of family law differs from other areas of litigation in that the circumstances of the litigants may continue to change and bring about new difficulties. Consequently, the capacity of the program to take new cases may be less in each successive year.

Telephone Inquiries

The provision of summary legal advice by phone is an important aspect of the program. The majority of applicants call in the initial stages of family break-ups. Typically, the caller will state "I just want to know my rights". Early advice and appropriate referrals to other agencies may provide reassurance to the callers and enable them to resolve their own difficulties before they lead to costly litigation.

During the past fiscal year an estimated 400 callers received telephone advice in family matters through the Charlottetown office. Approximately 250 additional callers were given summary advice or referred to other agencies in civil matters. Persons for whom a correspondence or litigation file was opened during the 1985/86 fiscal year are not included in those numbers. Statistical estimates of telephone inquiries are not available for the Summerside office, however the demand patterns were similar.

Family Legal Aid Activity

	<u>84/85</u>	<u>85/86</u>
1. NUMBER OF PERSONS FOR WHOM NEW FILES WERE OPENED	179	158
2. TYPE OF APPLICATION:		
Matrimonial (Divorce Act & Family Law Reform Act)..	84%	80%
Family & Child Services Act.....	12%	12%
Other.....	4%	8%
3. NUMBER OF PERSONS WHO REQUESTED TELEPHONE ADVICE WHERE NO FILE WAS OPENED - (Charlottetown Office only)		
Family.....	350	400
Civil.....	265	250

	<u>84/85</u>	<u>85/86</u>
4. REGIONAL DISTRIBUTION OF SERVICE	No. of Files	
Charlottetown.....	111	99
Summerside.....	68	59
5. RATIO OF MALE TO FEMALE CLIENTS		
Male.....	16%	11%
Female.....	84%	89%
6. NUMBER OF CASES WHERE PRIVATE COUNSEL ACTED THROUGH LEGAL AID.....	6	5
7. NUMBER OF INTER-PROVINCIAL REQUESTS		
To other provinces.....	3	2
From other provinces.....	4	5
8. TOTAL LEGAL AID EXPENDITURES		
Criminal & Family.....	\$202,948.93	\$197,717.00

PROBATION, FAMILY COURT AND YOUNG OFFENDERS SERVICES

General

At year's end field staff of the Division consisted of two Family Counsellors and 11 Probation Officers. Two Probation Officers, located in Charlottetown and Summerside, serve as Senior Probation Officers performing supervisory duties in addition to case load responsibilities. The Young Offenders Program continued to generate a great deal of new activity for staff which must be considered transitional and developmental in nature until the program becomes fully developed.

Pre-Sentence/Pre-Disposition Reports

During 1986 Probation Officers conducted assessments and investigations for and submitted 158 pre-sentence reports in response to requests from both Provincial and Supreme Court. This compared with 116 reports in 1985, and 108 reports in 1984. There were 173 pre-disposition reports prepared on Young Offenders for Youth Court compared with 150 reports in 1985.

Probation Supervision

On January 1, 1986 there were 621 individual adults (age 18 and over) under the supervision of Probation Officers in the Province with 654 new cases added during the year. This compares with 646 new cases added during 1985 and 501 cases in 1984. In addition there were 254 new young offender cases brought under supervision; this compares with 234 new cases in 1985.

On December 31, 1986, 608 individual adults were under supervision of Probation Officers. This reflects a decrease of 13 individuals over December 31, 1985. At year's end there were also 305 young offender cases under active supervision.

Community Service Orders

Provincial and on occasion Supreme Court Judges continued to use as an integral part of their sentencing practices, the concept of community services work which has expanded since its initiation in Prince Edward Island in 1977. Basically the Court requires an offender whether in lieu of or in addition to some other penalty to perform voluntarily some form of community service or work as a condition of a probation order. The prime consideration in the community service concept is to place responsibility on the offender to restore, at least in part, the harm done whether for the victim or the community at large.

In appropriate situations an offender may pay to the Court an amount for each hour of uncompleted work which goes toward a fund administered by the Provincial Court Judges who in turn consider applications from non-profit community groups for contributions from the Community Service Fund.

Restitution

Although restitution has been a part of sentencing in this Province for some 15 years it has received increased emphasis in recent years arising in part out of increased concern for victims of crime.

Essentially, the offender is required, as a condition of probation, to pay to the Clerk of the Court an established amount.

Temporary Absence Program

Staff of Probation Services assessed and investigated 200 applications from sentenced inmates of the Provincial Correctional Centre, Prince and Kings County Jails, under the regular Temporary

Absence Program. Of these the Department of Justice authorized 162 temporary absences. This compares with 50 in 1985. Of the 162 releases nine were for purposes of employment or paid training; three for purposes of education; 48 for purposes of treatment (32 alcohol and 16 medical) and 102 for rehabilitative or humanitarian reasons.

There was one violation of temporary absence privileges for 1986 as compared to zero for 1985.

The above releases do not include releases where inmates were escorted by Correctional Officers, Probation Officers or under the general supervision of Community Supervisors in a voluntary capacity, nor do they include releases by the National Parole Board on either day or full parole. As well, these releases do not include inmates released under the Christmas Temporary Absence Program outlined below.

Christmas Temporary Absence

The Christmas Temporary Absence Program established in 1971 where sentenced inmates in provincial institutions were provided the opportunity of spending some time with family and/or friends was continued in 1986. Thirty-eight inmates were provided the opportunity of being released for varying periods of time (10-48 hours).

Young Offenders Program

The Young Offenders Act (Canada) replaced the Juvenile Delinquents Act, when it came into effect on April 2, 1984. The Act has generated significant changes in how young offenders are dealt with in this Province. In April 1985 the Act raised the upper age of young or juvenile offenders to under 18 years instead of the former age of under 16.

The Department of Justice assumed responsibility for the overall administration of the Young Offenders Act within the Probation and Family Court Services division in April 1984.

While the legislation has required many changes, the most significant requirement is that the province must develop separate young offenders custody and residential facilities. During the year government reviewed an earlier decision to build a multi-purpose young offenders facility in Summerside. In November 1985 Government announced its decision to build a secure custody facility in Summerside and smaller open custody units in Tyne Valley and Georgetown. It is expected construction of the three facilities will be underway early in the 1987 construction year.

An open custody facility opened in Summerside in February as a temporary measure. The province also continues to use a range of facilities including those available in Nova Scotia and New Brunswick until permanent facilities are established in the province.

With the exception of the complex custody question, implementation to date has been demanding but without serious difficulty. While the Act will have obvious financial, staff and program demands, it can be seen as a challenge and opportunity to develop meaningful province-wide programs for young people in trouble with the law.

Family Court Services

Family Counsellors continued to provide support services for the Family division of the Prince Edward Island Supreme Court. These services are primarily counselling, investigative and supervisory in nature. Supportive counselling has expanded significantly to include mediation efforts particularly upon referrals from both the Court and private lawyers with the hope of reaching out-of-court settlements in as many matters as possible. It is expected an increased demand will be shown by the legal profession and others in mediation. This service combined with the investigation for and writing of custody reports are time consuming but very necessary and effective.

JUDICIAL DIVISION

FUNCTION AND ORGANIZATION

This division is responsible for the design and maintenance of an administrative structure that meets the needs of all courts throughout Prince Edward Island. Its primary and continuing objective is to make appropriate and effective use of personnel and other resources to develop and manage a comprehensive court services program throughout the Province.

The overall strength of personnel in the division is 29 with distribution of being as follows:

	Prothonotary	Legal Services Officer	Judicial Clerk 1	Judicial Clerk 2	Judicial Clerk 3	Court Stenographer	Sheriff	Clerk & J.P. (Part-Time)	TOTAL
Charlottetown.....	1	5	1	1	3	7	1	-	19
Summerside.....	-	1	-	1	1	2	1	-	6
Alberton.....	-	-	-	-	-	-	-	1	1
Georgetown.....	-	-	-	-	1	-	1	-	2
Souris.....	-	-	-	-	-	-	-	1	1
	1	6	1	2	5	9	3	2	<u>29</u>

The personnel provide the courts with support services, some of which are as follows:

1. GENERAL ADMINISTRATION

- budget and expenditure control
- personnel transactions
- equipment supply, purchases, etc.

2. JUDICIAL ADMINISTRATION

- taxation of costs on solicitor-client and party-party basis
- bankruptcy and discovery
- supervision over court officers
- Justices of the Peace.

3. COURT RECORDS

- registration and maintenance.

4. DOCKETING AT SUPREME COURT LEVEL.
5. STENOGRAPHIC AND SECRETARIAL AND CLERK OF THE COURT.
6. SHERIFF SERVICES
 - jury impanellment
 - process servers
 - execution of court orders
7. FINANCIAL RECORD MANAGEMENT
 - approximately \$3 million annually at both court levels.

1986

Supreme Court - Estates Division

523 petitions were filed during the year 1986, resulting in 499 court grants on behalf of Estates, with a total probate value of \$34,516,492.00.

Estates Division fees collected and deposited to the credit of the Minister of Finance for the Province totalled \$109,405.00.

Supreme Court - Family Division

682 files were opened. These included:

<u>1986</u>	<u>1985</u>	
278	233	Divorce petitions
66	58	Adoption petitions
82	60	Weddings
49	48	Change of Name applications
79	62	Family Law Reform Act applications
45	52	Family and Child Services Act applications
72	59	Maintenance Enforcement applications
10	-	Custody, Jurisdiction & Enforcement Act
2	10	Others

\$349,630.55 was the amount of maintenance collected as opposed to \$301,835.89 in 1985.

Supreme Court - General Division

Criminal - Non-Jury

Summary Conviction offence appeals to a single judge

47	Filed
40	Scheduled for hearing
13	Were abandoned
27	Heard with 21 written and 6 oral decisions given.

Indictable Offence trials before a single judge

<u>1985</u>	<u>1986</u>	
-	60	Filed
23	34	Scheduled for hearing and disposed of.

Civil Non-Jury

<u>1985</u>	<u>1986</u>	
98	112	Set for hearing
63	83	Heard and decisions given
35	29	Settled before trial

Small Claims

<u>1985</u>	<u>1986</u>	
1485	1042	New files opened
	580	Nothing done except Originating Notice
	331	Default judgments
	131	Defences filed
63	65	Trials held and decisions given
30	32	Set for hearing and settled

42% of files opened involved at least one litigant without counsel.

Supreme Court- Appeal Division

Criminal Appeals

<u>1985</u>	<u>1986</u>	
	40	Filed
31	26	Scheduled for hearing
8	10	Abandoned
23	16	Heard

Civil Appeals

<u>1985</u>	<u>1986</u>	
	50	Filed
44	36	Scheduled for hearing
12	10	Abandoned
32	22	Heard
	2	Adjourned
	2	Reserved for decision

Other Documents Filed

<u>1985</u>	<u>1986</u>	
1119	910	Judgments
17724	17868	Chattel mortgages
9646	8148	Conditional sales agreements
1901	1899	Assignment of book debts

Appointments and Retirements

Honourable George R. McMahon appointed Justice of the Supreme Court of Prince Edward Island
Eric Moreside - Retired as Sheriff of Queens County
Kenneth Jenkins - Appointed Sheriff of Queens County
Ann MacKinley - Appointed Supreme Court stenographer.

Provincial Court Fines Collected

	1983	1984	1985	1986
Charlottetown:	\$527,583.25	\$672,235.23	\$633,613.23	\$490,382.56
Summerside:	278,470.24	305,276.51	334,035.14	359,230.58
Georgetown:	100,638.58	139,425.40	125,678.76	114,467.49
Souris:	48,427.49	85,564.09	74,996.50	84,398.94
Alberton:	102,993.47	126,635.14	110,505.95	131,657.88